Except as provided under subd. 3. c., within

SECTION 51. 196.491 (3) (a) 3. b. of the statutes is amended to read:

196.491 **(3)** (a) 3. b. ~~Within 20 days after~~ After the department provides a listing specified in subd. 3. a. to a person, the person shall apply for the ~~applicable~~ permits and approvals identified in the listing. The department shall determine whether an application under this subd. 3. b. is complete and, no later than 30 days after the application is filed, notify the applicant about the determination. If the department determines that the application is incomplete, the notice shall state the reason for the determination. An applicant may supplement and refile an application that the department has determined to be incomplete. There is no limit on the number of times that an applicant may refile an application under this subd. 3. b. If the department fails to determine whether an application is complete within 30 days after the application is filed, the application shall be considered to be complete. The department shall complete action on an application under this subd. 3. b. for any permit or approval that is required prior to construction of a facility within 120 days after the date on which the application is determined or considered to be complete.

INS. 38-15

SECTION 52. 196.491 (4) (b) 2. of the statutes is amended to read:

196.491 **(4)** (b) 2. The person shows to the satisfaction of the commission that the person reasonably anticipates, at the time that construction of the equipment or facilities commences, that on each day that the equipment and facilities are in operation the person will consume no less than 70% of the aggregate kilowatt hours output from the equipment and facilities in manufacturing processes at the site where the equipment and facilities are located or in ferrous mineral mining and processing activities governed by subch. III of ch. 295 at the site where the equipment and facilities are located.

SECTION 53. 281.65 (2) (a) of the statutes is amended to read:

281.65 **(2)** (a) "Best management practices" means practices, techniques or measures, except for dredging, identified in areawide water quality management plans, which are determined to be effective means of preventing or reducing pollutants generated from nonpoint sources, or from the sediments of inland lakes polluted by nonpoint sources, to a level compatible with water quality objectives established under this section and which do not have an adverse impact on fish and wildlife habitat. The practices, techniques or measures include land acquisition, storm sewer rerouting and the removal of structures necessary to install structural urban best management practices, facilities for the handling and treatment of milkhouse wastewater, repair of fences built using grants under this section and measures to prevent or reduce pollutants generated from mine tailings disposal sites for which the department has not approved a plan of operation under s. 289.30 or s. 295.51.

SECTION 54. 281.75 (17) (b) of the statutes is amended to read:

281.75 **(17)** (b) This section does not apply to contamination which is compensable under subch. II of ch. 107 or s. 293.65 (4) ~~or to contamination arising out of mining operations governed by subch. III of ch. 295~~ or 295.61(8).

SECTION 55. 287.13 (5) (e) of the statutes is amended to read:

287.13 **(5)** (e) Solid waste produced by a commercial business or industry which is disposed of or held for disposal in an approved facility, as defined under s. 289.01 (3), or a mining waste site, as defined in s. 295.41 (31), covered by a mining permit under s. 295.58, owned, or leased by the generator and designed and constructed for the purpose of accepting that type of solid waste.

SECTION 56. 289.35 of the statutes is amended to read:

(b) The department shall approve or deny the application for an approval to which par. (a) applies within 180 days after the date on which the application is considered to be complete under sub. (4).

(10r) An approval identified under sub. (3) is issued upon mailing and is final and effective upon issuance.

(11) The department is not required to prepare an environmental impact statement or an environmental assessment for an approval required for bulk sampling.

295.46 Preapplication description. (1) A person who files a bulk sampling plan under s. 295.45 with regard to a proposed mining project shall file, together with the bulk sampling plan, a general description of the proposed mining project. A person who proposes to engage in a mining project, but who does not file a bulk sampling plan, shall file a general description of the proposed mining project with the department at the time that the person provides the notice of intent to file an application for a mining permit under s. 295.465. The general description shall include all of the following:

(a) A description of the proposed mining site.

(b) A map that shows all of the following:

1. The boundaries of the area of land that will be affected by the proposed mining project.

2. The location and names of all streams, roads, railroads, pipelines, and utility lines on or within 1,000 feet of the proposed mining site.

3. The name or names of the owner or owners of the proposed mining site.

4. The name of each city, village, or town in which the proposed mining site is located and the name of any other city, village, or town that is located within 3 miles of the proposed mining site.

5. The federal natural resources conservation service land capabilities classifications of the area affected by the proposed mining project.

6. The elevation of the water table.

(c) A general description of the nature, extent, and final configuration of the proposed excavation and mining site, including an estimate of the production of tailings, waste rock, and other refuse and the location of their disposal.

(d) A general conceptual description of the likely operating procedures of the proposed mining project.

(e) The likely location, and a general description, of the excavation, waste site, and processing facilities relating to the proposed mining project.

(2) (a) If the department provides notice to an applicant under s. 295.45 (3) that no approvals are required for bulk sampling or if a person who proposes to engage in a mining project files a preapplication description of the proposed mining project at the time that the person provides the notice of intent to file an application for a mining permit under s. 295.465 because the person did not file a bulk sampling plan, the department shall publish a class 1 notice, under ch. 985, of a public informational hearing on the proposed mining project. The department shall publish the notice when if notifies the applicant that no approvals are required or after it receives the notice of intent.

(b) In a notice under par. (a), the department shall do all of the following:

1. Describe the availability of the preapplication description.

2. Describe the opportunity to submit written comments within 30 days after the notice is published.

3. Specify the date, time, and location of the public informational hearing.

(c) The department shall send a notice under par. (a) to all of the following:

1. The clerk of any city, village, town, or county within which any part the proposed mining site lies.

2. The clerk of any city, village, or town, contiguous to any city, village, or town within which any portion of the proposed mining site is located.

3. Any regional planning commission for the area within which the affected area lies.

4. Any state agency that the department knows may be required to grant a permit or other authorization necessary for the proposed mining project.

5. Any interested person who has requested notification.

(d) The department shall hold a public informational hearing within 30 days after publishing the notice under par. (a). The department shall hold the public informational hearing in the county in which the majority of the proposed mining site is located.

Except as provided in Sub (3),

295.465 Preapplication notification. **(1)** At least 12 months before filing an application for a mining permit under s. 295.47, a person proposing to engage in a mining project shall notify the department in writing of the intention to file an application for a mining permit. After receiving the notification, the department shall hold at least one meeting with the person to make a preliminary assessment of the project's scope, to make an analysis of alternatives, to identify potential interested persons, and to ensure that the person making the proposal is aware of all of the following:

(a) The approvals, including the filing requirements for the approvals, that the person may be required to obtain for the mining project.

(b) The requirements for submission of an environmental impact report and for submission of any other information required by the department to prepare an environmental impact statement under s. 295.53.

(c) The information the department will require to enable the department to process the application for the mining permit in a timely manner.

(2) Within 60 days of a meeting under sub. (1), the department shall provide all of the following to the person:

(a) A detailed written summary of the requirements under sub. (1) (a) to (c).

(b) Any available information relevant to the potential impacts of the mining project on rare, threatened, or endangered species and historic or cultural resources and any other information relevant to potential impacts that may occur from the project that are required to be considered under s. 1.11.

(c) Available information to evaluate the environmental impact of the project and to expedite the preparation of the environmental impact report and the environmental impact statement, including information concerning preliminary environmental reviews, field studies, and investigations; monitoring programs to establish baseline water quality; laboratory studies and investigations; advisory services; and the timing and the processes associated with any necessary consultations with other state or federal agencies and within the department, such as those required for endangered resources and cultural resource consultations and approvals.

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295.47 Application for mining permit. (1) (a) No person may engage in mining or reclamation at any mining site unless the mining site is covered by a

mining permit and by written authorization to mine under s. 295.59 (3). An applicant shall submit an application for a mining permit to the department in writing and in reproducible form and shall provide the number of copies that are requested by the department. An application and a mining permit are required for each separate mining site. The applicant shall distribute copies of the application to the clerk of any city, village, town, or county with zoning jurisdiction over the proposed site, to the clerk of any city, village, town, or county within whose boundaries any portion of the proposed mining site is located, to the elected governing body of any federally recognized American Indian tribe or band with a reservation the boundaries of which are within 20 miles of the proposed site, and to the main public library of each city, village, town, or county with zoning jurisdiction over the proposed site or within whose boundaries any portion of the proposed site is located.

(b) If a person proposes to conduct mining at a mining site that includes an abandoned mining site, the person shall include plans for reclamation of the abandoned mining site, or the portion of the abandoned mining site that is included in the mining site, in its mining plan and reclamation plan.

(2) As a part of each application for a mining permit, the applicant shall furnish all of the following:

(a) A mining plan under s. 295.48.

(b) A reclamation plan under s. 295.49.

(c) A mining waste site feasibility study and plan of operation under s. 295.51.

(e) The name and address of each owner of land within the mining site and each person known by the applicant to hold any option or lease on land within the mining site.

(f) A list of all mining permits in this state held by the applicant.

(g) Evidence the applicant has applied or will apply for necessary permits or other permissions under all applicable zoning ordinances and that the applicant has applied or will apply to the department for any approval and has applied or will apply for any other license or permit required under state law.

(h) 1. The information specified in subd. 2. concerning the occurrence of any of the following within 10 years before the application is submitted:

a. A forfeiture by the applicant, principal shareholder of the applicant, or a related person of a mining reclamation bond that was sufficient to cover all costs of reclamation and was posted in accordance with a permit or other approval for a mining operation in the United States, unless the forfeiture was by agreement with the entity for whose benefit the bond was posted.

b. A felony conviction of the applicant, a related person, or an officer or director of the applicant for a violation of a law for the protection of the natural environment arising out of the operation of a mining site in the United States.

c. The bankruptcy or dissolution of the applicant or a related person that resulted in the failure to reclaim a mining site in the United States in violation of a state or federal law.

d. The permanent revocation of a mining permit or other mining approval issued to the applicant or a related person if the permit or other mining approval was revoked because of a failure to reclaim a mining site in the United States in violation of state or federal law.

2. The applicant shall specify the name and address of the person involved in and the date and location of each occurrence described in subd. 1.

(i) A description of any land contiguous to the proposed mining site that the applicant owns or leases or has an option to purchase or lease.

(j) Any other pertinent information that the applicant believes may be useful to the department.

295.48 Mining plan. (1) GENERAL. An applicant for a mining permit shall submit as part of the application a mining plan that includes a description of the proposed mining site and either a detailed map drawn to a scale approved by the department or aerial photographs, if the photographs show the details to the satisfaction of the department, prepared and certified by a competent engineer, surveyor, or other person approved by the department that show all of the following:

(a) The boundaries of the area of land that will be affected.

(b) The drainage area above and below the area that will be affected.

(c) The location and names of all streams, roads, railroads, pipelines, and utility lines on or within 1,000 feet of the mining site.

(d) The name or names of the owner or owners of the mining site.

(e) The name of the city, village, or town in which the mining site is located and the name of any other city, village, or town that is within 3 miles of the mining site.

(2) DESCRIPTIVE DATA. The applicant shall provide descriptive data to accompany the map or photographs under sub. (1), including all of the following:

(a) The federal natural resources conservation service land capabilities classifications of the affected area.

(b) The elevation of the water table.

(c) Details of the nature, extent, and final configuration of the proposed excavation and mining site, including the total estimated production of tailings, waste rock, and other refuse and the location of their disposal.

(d) The nature and depth of the overburden.

(3) OPERATING PROCEDURES. The applicant shall also include in the mining plan the details of the proposed operating procedures, including descriptions of all of the following:

(a) The sequence of mining operations.

(b) The handling of overburden materials.

(c) The production, handling, and final disposition of tailings.

(d) The milling, concentrating, refining, and other processing of ferrous minerals.

(e) The storage, loading, and transportation of the final product.

(f) Groundwater and surface water management techniques, including provisions for erosion protection and drainage control, and a water management plan showing water sources, flow paths and rates, storage volumes, and release points.

(g) Plans for collection, treatment, and discharge of any water resulting from the mining.

(h) Plans for protecting air quality under ch. 285.

(hm) A plan for monitoring environmental changes at the mining site.

(hr) An assessment of the risk of the occurrence of an accidental health or environmental hazard in connection with the operation of the mine. The assessment shall include, with specificity, a description of the assumptions that the applicant used in making the risk assessment and the contingency measures that the applicant proposes to take in the event of that an accidental health or environmental hazard occurs.

(i) Measures for notifying the public and responsible governmental agencies of potentially hazardous conditions, including the movement or accumulation of toxic wastes in groundwater and surface water, soils, and vegetation, and other consequences of the operation of importance to public health, safety, and welfare.

(j) All surface facilities associated with the mining site and any use of mining waste in reclamation or the construction of any facility or structure.

(k) All geological and geotechnical investigations and drilling programs.

(L) A plan for completing and submitting a preblasting survey to the department before any blasting is conducted.

(4) REQUIRED DEMONSTRATIONS. The applicant shall demonstrate in the mining plan that the proposed mining will be consistent with the reclamation plan under s. 295.49 and that all of the following will apply, at a minimum:

(a) Handling and storage of all materials on the mining site will be done in an environmentally sound manner.

(b) Buildings and other structures will be painted and maintained in a manner that is visually compatible with the surrounding vegetational and earth conditions, except that if a building or other structure cannot be painted and maintained in a manner that is visually compatible or if painting and maintaining a building or other structure in a manner that is visually compatible would cause safety concerns, the building or structure will be made as visually inconspicuous as is practicable.

(c) Effective means will be taken to limit access to the mining site to minimize exposure of the public to hazards.

(d) The use of mine mill chemicals and processing reagent wastes will be governed by all of the following:

1. Reagents and mine mill chemicals will not be used in a manner that will result in substantial harm to public safety or health or to the environment.

2. Reagents and mine mill chemicals that consist of or contain water soluble salts or metals will be used in accordance with any applicable approval.

3. Reagents will not be used or stored at the mining site if they are not included in the mining waste site feasibility study and plan of operation or in the mining plan, except for reagents for laboratory, testing, research, or experimental purposes.

(e) Provisions will be made for back–up equipment in the event of the breakdown of critical operation equipment.

(f) The design and operation specifications for mining site facilities include features, which may include emergency power supplies, redundant equipment, or temporary holding facilities, to deal with emergency conditions.

(g) Mining site facilities are designed to minimize disturbance to surface areas, to the extent practicable.

(h) Where practicable, elevation differences in water–based transport systems will be used for gravity flows to minimize pumping facilities and pressures.

(i) The following apply:

1. Systems for transporting tailings in slurry through pipelines that are not buried are designed to provide for emergency tailings conveyance or storage in case a pipeline breaks, plugs, freezes, or needs repairs and will be accessible for inspection, emergency repair, and maintenance.

2. The location of emergency spill containment areas is consistent with the prevention of substantial environmental pollution of surface waters.

3. In the event of a power failure, tailings pipelines will be self draining to a tailings area or an emergency spill containment area or standby pumps and pipelines or standby power is provided.

4. More than one emergency spill containment area is provided if necessary.

(j) If practicable, all liquid effluents from the mining site will be directed to a common point, for treatment if necessary, before discharge to a natural watercourse.

(L) If sanitary wastes will be directed to a tailings area they will be appropriately treated.

295.49 Reclamation plan. (1) An applicant for a mining permit shall submit as part of the application a reclamation plan, designed to minimize adverse effects to the environment to the extent practicable, that includes all of the following:

(a) A description of the manner, location, sequence, and timing of reclamation of the mining site, including the mine, mining waste site, and sites for the disposal of wastes that are not mining wastes.

(am) Prereclamation and postreclamation drawings.

(b) A map showing the specific reclamation proposal for each area of the mining site.

(c) A description of ongoing reclamation procedures during mining.

(d) A description of proposed interim and final topography and slope stabilization.

(e) A description of the proposed final land use and the relationship to surrounding land and land use.

(f) Plans for the long–term care of the mining site, that include all of the following:

1. Monitoring of the mine; mining waste sites; sites for the disposal of wastes that are not mining wastes; groundwater quality; and surface water quality.

2. The names of persons legally and operationally responsible for long–term care.

(g) Projected costs of reclamation, including the estimated cost of fulfilling the reclamation plan.

(2) The applicant shall demonstrate in the reclamation plan that all of the following will apply to the proposed reclamation, at a minimum:

(a) All toxic and hazardous wastes will be disposed of in conformance with applicable state and federal laws.

(b) At the conclusion of mining activity, each tunnel, shaft, and other underground opening will be sealed in a manner that will prevent seepage of water in amounts that may be expected to create a safety, health, or environmental hazard, unless the applicant demonstrates alternative uses for the tunnel, shaft, or other underground opening that do not endanger public health or safety and that conform to applicable environmental protection and mine safety laws and rules.

(c) Grading and stabilization of the excavation, sides, benches, and final slope will conform with state and federal environmental and safety requirements and will prevent erosion and environmental pollution to the extent practicable.

(d) Grading and stabilization of the mining waste site and sites for the disposal of wastes that are not mining wastes will conform with state and federal environmental and safety requirements.

(e) Merchantable by–products will be stabilized.

(f) Diversion and drainage of water from the mining site, including the mining waste site and sites for the disposal of wastes that are not mining wastes, will be

adequate to prevent erosion and contamination of surface water and groundwater to the extent practicable.

(g) Backfilling with tailings, waste rock, overburden, or borrow materials will be conducted where the backfilling will not interfere with the mining and will not cause an applicable groundwater quality standard to be exceeded.

(h) All underground and surface runoff waters from the mining site will be managed, impounded, or treated in compliance with any approval that regulates construction site erosion control or storm water management or discharge.

(i) All surface structures constructed as part of the mining activities will be removed unless an alternate use is approved in the reclamation plan.

(j) Adequate measures will be taken to prevent significant subsidence, but if subsidence does occur, the affected area will be reclaimed.

(k) All recoverable topsoil from surface areas disturbed by the mining will be removed and stored in an environmentally acceptable manner for use in reclamation or in the mitigation or minimization of adverse environmental impacts.

(L) All disturbed surface areas will be revegetated as soon as practicable after the disturbance to stabilize slopes and minimize air pollution and water pollution, with the objective of reestablishing a variety of plants and animals indigenous to the area immediately prior to mining to the extent practicable.

(m) Plant species not indigenous to the area will be used for revegetation only if necessary to provide rapid stabilization of slopes and prevention of erosion and only with the approval of the department, but the objective under par. (L) will be maintained.

(3) If it is physically or economically impracticable or environmentally or socially undesirable for the reclamation process to return the area affected by mining

to its original state, the applicant shall provide, in the reclamation plan, the reasons it would be impracticable or undesirable and a discussion of alternative conditions and uses to which the affected area can be put.

295.51 Mining waste site location criteria; feasibility study, and plan of operation. (1) DEFINITIONS. In this section:

(a) "Groundwater flow net" means a drawing showing equipotential contour lines and the direction that groundwater will flow.

(c) "Regional" means relating to the area that may affect or be affected by a proposed mining waste site, which ordinarily will not exceed the area within a radius of 5 miles of the mining waste site.

(e) "Water budget" means an assessment of water inputs, outputs, and net changes to a natural system or engineered facility over a fixed period.

(f) "Well nest" means 2 or more wells constructed to different depths and installed within 10 feet of each other at the ground surface.

(1e) HAZARDOUS MINING WASTE. (a) Prior to the informational hearing under s. 295.57 (5) the department shall designate any mining wastes identified by the department as hazardous under s. 291.05 (1).

(b) The disposal of any mining wastes that are identified by the department as hazardous under s. 291.05 (1) in a mining waste site is subject to this subchapter, and not to chs. NR 660 to 669, Wis. Adm. Code, except as necessary to comply with applicable federal regulations adopted under the federal Resource Conservation and Recovery Act, 42 USC 6901 to 6991m.

(1m) LOCATION CRITERIA. (a) Except as provided in par. (b), no person may locate or operate a mining waste site, excluding the portion of a mining site from which

ferrous minerals are extracted and that is backfilled with mining waste, within 1,000 feet of any of the following:

1. The nearest edge of the right–of–way of any state trunk highway, as defined in s. 340.01 (60).

2. The boundary of any state or national park.

3. The boundary of a scenic easement purchased by the department or the department of transportation.

4. The boundary of a designated scenic or wild river.

5. A scenic overlook designated by the department by rule.

6. A hiking or biking trail designated by the department or the U.S. Congress.

(b) The prohibition in par. (a) does not apply if, regardless of season, the proposed mining waste site is visually inconspicuous due to screening or being visually absorbed due to natural objects, compatible natural plantings, earth berm, or other appropriate means; or if, regardless of season, the proposed mining waste site is screened so as to be as aesthetically pleasing and inconspicuous as is feasible.

(be) Except as provided in par. (bn), no person may locate or operate a mining waste site, excluding the portion of a mining site from which ferrous minerals are extracted and that is backfilled with mining waste, within 1,000 feet of a navigable water that is a lake, pond, or flowage.

(bg) Except as provided in par. (bn), no person may locate or operate a mining waste site, excluding the portion of a mining site from which ferrous minerals are extracted and that is backfilled with mining waste, within 300 feet of a navigable water that is a river or stream.

(bn) The prohibitions in pars. (be) and (bg) do not apply to an activity that is associated with a mining waste site and that is approved by the department under s. 295.60, 295.605, or 295.61.

(bq) No person may locate or operate a mining waste site, excluding the portion of a mining site from which ferrous minerals are extracted and that is backfilled with mining waste, within a floodplain.

(bt) No person may locate or operate a mining waste site, excluding the portion of a mining site from which ferrous minerals are extracted and that is backfilled with mining waste, in an area within the property owned by the mining operator and on which the mining site is located if the area is closer than 200 feet to the outer boundary of that property.

(c) No person may locate or operate a mining waste site, excluding the portion of a mining site from which ferrous minerals are extracted and that is backfilled with mining waste, within 1,200 feet of any public or private water supply well that provides water for human consumption.

(d) No person may locate or operate a mining waste site, excluding the portion of a mining site from which ferrous minerals are extracted and that is backfilled with mining waste, within an area that contains mineral resources that are known at the time the application for the mining permit is issued, are likely to be mined in the future, and lie within 1,000 feet of the surface.

(1s) BACKFILLED WASTE SITE. For surface mining, the portion of a mining site from which ferrous minerals are extracted and that is backfilled with mining waste and any buildings, structures, roads, or drainage controls associated with that portion of the mining site may be considered a single mining waste site.

(2) GENERAL. An applicant for a mining permit shall submit as part of the application a mining waste site feasibility study and plan of operation that demonstrates the suitability of the proposed mining waste site for the disposal of mining wastes and that describes the operation of the mining waste site.

(3) WASTE CHARACTERIZATION AND ANALYSIS. For the purposes of this section, the applicant shall perform waste characterization and analysis, to identify the quantities, variability, and physical, radiological, and chemical properties of each mining waste as necessary to assess the potential environmental impact of handling, storage, and disposal. The applicant may include in the waste characterization and analysis a review of the literature and results from similar existing facilities, materials, or studies. For the purpose of the waste characterization and analysis, the applicant shall conduct testing on representative samples of materials available, on individual mining wastes from the mining process, and if the applicant proposes mixed storage or disposal of individual mining wastes, on composite mining wastes. If physical or chemical segregation of a mining waste is proposed, the applicant shall test each individual waste resulting from the physical or chemical segregation. The applicant shall complete all of the following components of the waste characterization and analysis:

(a) Identification of all mining wastes that will be disposed of or stored in the mining waste site, including classification of mining waste types, estimates of the rates of generation and volumes of each type, and an explanation of the proposed ultimate disposition of each type.

(b) Chemical, radiological, physical, and mineralogical analyses of each type of mining waste.

(c) Analyses of the particle size of the mining wastes.

(d) Chemical and physical characteristics testing, including testing to determine the leaching potential of the mining wastes and the composition of the resulting leachate, using, at a minimum, the method in federal environmental protection agency publication EPA 600/2–78–054, except that this testing is not required if the applicant demonstrates, based on the analyses in pars. (b) and (c) or on past experience, that there is not a probability for significant environmental damage or a probability of an adverse impact on public health, safety, or welfare.

(4) SITE SPECIFIC INFORMATION. In addition to performing the mining waste characterization and analysis under sub. (3), for the purposes of the mining waste site feasibility study and plan of operation, an applicant shall conduct field and laboratory investigations to determine physical, chemical, and biological characteristics of the proposed mining waste site. The applicant shall do all of the following:

(a) Perform field investigations to determine the specific topography, soil types, and depth to bedrock and groundwater.

(b) Perform at least one soil boring, to bedrock or refusal, every 80 acres, characterizing the major geomorphic features such as ridges and lowlands and characterizing each major soil layer according to the unified soil classification system.

(c) Prepare a boring log for each soil boring, including soil and rock descriptions, method of drilling, method of sampling, sample depths, date of boring, and water level measurements and dates, with elevations referring to United States geological survey mean sea level datum.

(d) Collect soil samples to adequately determine the geology and ensure the proper design and monitoring of the mining waste site, including doing all of the following:

1. Collecting the soil samples at not greater than 5 foot depth intervals, unless physical conditions such as soil homogeneity indicate that greater intervals are adequate.

2. Collecting the soil samples using generally accepted techniques for sampling undisturbed soils, where that is appropriate.

3. Classifying all soil samples according to the unified soil classification system.

(e) Perform soil tests as necessary for classification and correlation purposes and to develop necessary geotechnical design parameters for the mining waste site, without compositing soil samples.

(f) Determine the hydraulic conductivity of the various soil strata, using in situ hydraulic conductivity testing procedures as appropriate to confirm values determined in the laboratory.

(g) Determine horizontal and vertical groundwater flow patterns in and around the proposed mining waste site based on data obtained from groundwater monitoring wells and piezometers constructed in conformity with ch. NR 141, Wis. Adm. Code.

(h) Conduct a program to establish baseline water quality through monitoring groundwater and surface water in the vicinity of the mine and the proposed mining waste site on a monthly basis and establishing physical–chemical and biological characteristics of the concentrations of substances in the water before mining begins at the mining site. The applicant shall do all of the following:

1. Select physical–chemical parameters based on transport and transformation mechanisms in the environment as well as other factors affecting the mobility and toxicity of pollutants.

2. Select biological parameters based on the environmental characterizations under sub. (5) (g), the degree of impact predicted, and the potentially affected organism's sensitivity to contaminants.

3. Establish a final parameter list for groundwater and surface water based on preliminary sampling and known information concerning the waters in the vicinity of the mine and the mining waste site, consideration of applicable water quality standards, and the geology and composition of the ferrous mineral deposit that will be mined. At a minimum, in the program under this paragraph the applicant shall collect water quality data for all of the following parameters:

a. Specific conductance.

b. Temperature.

c. Hydrogen ion concentration (pH).

d. Dissolved oxygen.

e. The major anions sulfate, chloride, and bicarbonate.

f. The major cations calcium, magnesium, potassium, and sodium.

g. Other total and dissolved metals, including aluminum, iron, and manganese, that may be introduced by the mining activities.

h. General chemistry, including total alkalinity, total organic carbon, gross alpha, gross beta, ammonia, nitrate, total dissolved solids, total hardness, and total suspended solids.

(5) CONTENTS RELATED TO WASTE SITE FEASIBILITY. An applicant shall include all of the following in the mining waste site feasibility study and plan of operation:

(a) A description of the mining waste site location, proposed acreage, proposed mining waste site life and range of disposal capacity, and estimated types and quantities of mining wastes to be contained.

(b) A description of the mining waste characterization and analysis conducted under sub. (3), including a description of the test methods used in evaluating the characteristics of the mining waste and the procedures and records for documenting the chain of custody of the test samples.

(c) An existing site conditions plan sheet consisting of a topographic survey of the area, with elevations tied to United States geological survey mean sea level datum, illustrating the property boundaries, proposed boundaries of the mining waste site, survey grid and north arrow, buildings, water supply wells, utility lines, other man–made features, soil boring locations, observation well locations, and other pertinent information.

(d) A series of geologic cross–sections illustrating existing topography; soil borings; soil classification; soil properties; interpreted soil stratigraphy; bedrock; well and boring locations and constructions; and stabilized water level readings.

(e) A water table map, using the existing site conditions plan under par. (c) as a base, that is based on stabilized water level readings and, if seasonal changes in groundwater levels are significant, maps those changes.

(f) If more than 2 well nests are constructed, groundwater flow nets to illustrate horizontal and vertical flow, which may be illustrated on the geologic cross–sections under par. (d), if appropriate.

(g) An environmental characterization that describes the structure and functional relationships of ecosystems potentially affected by the proposed mining waste site.

(h) A report on the water quality data collected under the baseline monitoring program under sub. (4) (h) to establish baseline water quality.

(i) A land use map, using the existing site conditions plan under par. (c) as a base, showing plant communities, wildlife habitat, places where rare and endangered species have been sighted, archaeological or historic sites, buildings, and areas of social importance.

(j) A table showing existing water quality of all potentially affected surface waters, indicating important aquatic habitat.

(k) Local climatological data for seasonal precipitation, evaporation, air temperature, and wind velocity and direction. The applicant may use an annual record on the proposed mining waste site or adequate data to correlate the proposed mining waste site conditions to an existing observation station as the basis for this data.

(L) A discussion of regional conditions, supplemented with maps or cross–sections where appropriate, addressing all of the following:

1. Topography.

2. Hydrology, including surface water drainage patterns and important hydrologic features such as navigable waters, springs, drainage divides, and wetlands.

3. Geology, including the nature and distribution of bedrock and unconsolidated deposits.

4. Hydrogeology, including depth of groundwater, flow directions, recharge and discharge areas, groundwater divides, aquifers, and the identification of the aquifers used by all public and private wells within at least 1,200 feet of the proposed mining waste site.

5. Groundwater and surface water quality and precipitation chemistry.

6. Climatology.

7. Identification of owners of land adjacent to the proposed mining waste site.

8. Zoning.

9. Existing land uses with particular emphasis on known recreational, historic, archaeological, scientific, cultural, or scenic significance.

10. Existing or proposed access roads and weight restrictions on those roads.

11. Identification of aquatic and terrestrial ecosystems such as stream orders and classifications.

(m) A discussion of alternative methods of disposing of mining waste materials, including an analysis of the practicability of the reuse, sale, recovery, or processing of the mining wastes for other purposes.

(n) An analysis of the results of the mining waste characterizations under sub. (3), the site specific information under sub. (4) and this subsection, and the regional information under par. (L) in relation to the approach for locating the mining waste site and developing appropriate design, construction, operation, monitoring, and long–term care requirements for each type of mining waste.

(o) A proposed mining waste site design, based on conclusions resulting from analysis of the mining waste characterizations under sub. (3) and the site data under sub. (4), that includes all of the following:

1. A map, using the existing site conditions plan under par. (c) as a base, that shows proposed access, lateral extent of filling, and phases of mining waste site development.

2. A series of cross–sections, using the geological cross–sections under par. (d) as the base, that show existing topography, proposed base grades, and final grades.

3. Preliminary earthwork balance calculations, showing amounts of materials expected to be moved on the mining waste site prior to the disposal of mining waste.

4. Proposed methods for leachate control.

5. Proposed methods of mining waste site development, phasing, access control, and other special design features.

6. Expected material balances showing the quantities of each type of mining waste identified in par. (a) showing the amounts generated, disposed of on site, and taken off site, including all of the following:

a. The projected conditions existing at the end of a typical year of production.

b. The projected conditions existing at the end of operations.

c. The projected conditions existing at the end of reclamation.

7. A discussion of the reasoning behind the design of the major features of the mining waste site, such as traffic routing, base grade and relationships to subsurface conditions, anticipated waste types and characteristics, phases of development, mining waste site monitoring, and similar design features.

8. A proposed monitoring program, based on potential variations in the quality and quantity of mining waste and methods of processing, transport and disposal, and on the variability of important environmental conditions, designed to monitor the proposed mining waste site for compliance with all environmental standards that are applicable under this subchapter.

9. The results of engineering and hydrologic modeling to assess mining waste site performance relative to compliance with applicable groundwater quality standards to a depth of not more than 1,000 feet into the Precambrian bedrock or to the final depth of the mining excavation, whichever is greater, and to compliance with applicable surface water quality standards, examining a period equal to the

proposed period in which the mining waste site is proposed to operate plus 100 years after closure of the mining waste site. The applicant may also include information from other mining operations and operations for the extraction of nonferrous metallic minerals to substantiate that the proposed mining waste site design, including associated contingency plans and monitoring and response plans, will allow for the operation and closure of the mining waste site in a manner that will not substantially adversely affect groundwater and surface water quality in accordance with applicable standards.

10. If the applicant proposes to expand an existing mining waste site, an evaluation of the existing mining waste site design and operation.

(p) Preliminary water budgets for the periods before construction, during construction, and after closure of the mining waste site, each addressing climatological situations depicting dry, wet, and average precipitation and evaporation conditions, based on climatological records. In preparing the water budget, the applicant shall consider precipitation, slurry water input and return, evaporation, surface runoff, evapotranspiration, the moisture holding capacity of soil and mining waste, and the velocities and volumes of groundwater flow. In the water budget, the applicant shall describe the estimated amount and quality of seepage and discharge to surface water and groundwater.

(q) An analysis of the impact of the mining waste site on aesthetics and how any impact can be minimized or mitigated to the extent practicable.

(r) Data regarding the safety factors of tailings basin embankments, considering the following, on a case–by–case basis:

1. Geology of the mining waste site including type and homogeneity of the foundation.

2. Materials and methods to be used for embankment construction.

3. Physical and chemical characteristics of the mining waste as deposited and predicted changes through time.

4. The potential area to be affected in case of failure, considering land use and the surrounding environment.

5. Requirements of the mine safety and health administration of the federal department of labor.

(s) An economic analysis, including an engineer's cost estimate, for mining waste site closure and long–term care.

(t) Identification and analysis of alternatives to the design and location of any new proposed mining waste site and discussion of operation alternatives to the extent they have a significant impact on design and location alternatives.

(u) An appendix that includes all of the following:

1. Boring logs, soil tests, well construction data, and water level measurements.

2. A description of the methods and equations used in the analysis of the raw data.

3. References.

(6) CONTENTS RELATING TO OPERATION. An applicant for a mining permit shall submit as part of the mining waste site feasibility study and plan of operation provisions relating to operation of the mining waste site including all of the following:

(a) Engineering plans consisting of all of the following:

1. An existing site conditions plan sheet indicating site conditions before development to the extent not provided under sub. (5).

2. A base grade plan sheet indicating mining waste site base grades or the appearance of the mining waste site if it were excavated in its entirety to the base elevation, before installation of any engineering modifications and before disposal of any mining wastes.

3. An engineering modifications plan sheet indicating the appearance of the mining waste site after installation of engineering modifications.

4. A final site topography plan sheet indicating the appearance of the site at closing including the details necessary to prepare the mining waste site for reclamation and long–term care.

5. A series of phasing plan sheets showing initial mining waste site preparations for each subsequent major phase or new area where substantial mining waste site preparation must be performed, along with a list of construction items and quantities projected to be necessary to prepare the phase indicated.

6. A site monitoring plan sheet showing the location of all devices for the monitoring of leachate quality, leachate production, and groundwater quality and levels in both the natural zone of saturation and that developed within the mining waste site, along with a table indicating the parameters to be monitored for and the frequency of monitoring before and during mining waste site development.

7. A long–term care plan sheet showing the completion of closure and indicating those items anticipated to be performed during the period of long–term care for the mining waste site, along with a discussion of the procedures to be used for the inspection and maintenance of runoff control structures, settlement, erosion damage, leachate control facilities, and leachate and groundwater monitoring and a table listing those items and the anticipated schedule for monitoring and maintenance.

8. If applicable, the following information on the plan sheets under subds. 1. to 7.:

a. A survey grid with baselines and monuments to be used for field control.

b. Limits of filling for each major mining waste type or fill area.

c. All drainage patterns and surface water drainage control structures both within the actual fill area and at the perimeter of the mining waste site, including any berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets, velocity breaks, sodding, erosion matting, vegetation, or other methods of erosion control.

d. The method of placing mining waste within each phase.

e. Ground surface contours at the time represented by the drawing, indicating spot elevations for key features.

f. Areas to be cleared, grubbed, and stripped of topsoil.

g. Borrow areas for liner materials, granular materials for filter beds, berms, roadway construction, and cover materials.

h. All soil stockpiles, including soils to be used for cover, topsoil, liner materials, filter bed materials, and other excavation.

i. Access roads and traffic flow patterns to and within the active fill area.

j. All temporary and permanent fencing.

k. The methods of screening such as berms, vegetation, or special fencing.

L. Leachate collection, control, and treatment systems, including any pipes, manholes, trenches, berms, collection sumps or basins, pumps, risers, liners, and liner splices.

m. Leachate and groundwater monitoring devices and systems.

n. Disposal areas for severe weather operations.

o. Support buildings, utilities, gates, and signs.

p. Handling areas for the segregation of various types of mining waste.

q. Construction notes and references to details.

r. On the appropriate plan sheet, the location of each cross–section under subd. 9., with the section labeled using the mining waste site grid system.

9. A series of mining waste site cross–sections, drawn perpendicular and parallel to the mining waste site baseline at a maximum distance of 500 feet between cross–sections and at points of important construction features, each cross–section showing, where applicable: existing and proposed base and final grades; soil borings and monitoring wells that the section passes through or is adjacent to; soil types, bedrock, and water table; leachate control, collection, and monitoring systems; quantity of mining waste and area filled by each major mining waste type; drainage control structures; access roads and ramps on the mining waste site perimeter and within the active fill area; the filling sequence or phases; and other appropriate site features.

10. Drawings and typical sections for, as appropriate, drainage control structures, tailings distribution systems, access roads, fencing, leachate control systems and monitoring devices, buildings, signs, and other construction details.

(b) A plan for initial site preparations, including a discussion of the field measurements, photographs to be taken, and sampling and testing procedures to be used to verify that the in–field conditions encountered were the same as those defined in the mining waste site feasibility study and plan of operation and to document that the mining waste site was constructed according to the engineering plans and specifications submitted for department approval.

(c) A description of typical daily operations, including a discussion of the timetable for development; methods for determining mining waste types disposed of or excluded; typical mining waste handling techniques; hours of operation; traffic routing; drainage and erosion control; windy, wet, and cold weather operations; fire protection equipment; methods for dust control; method of placing mining waste materials; monitoring; closure of filled areas; leachate control methods; and critical backup equipment.

(d) An analysis of the financial responsibility for closure and long–term care from the time of closing of the mining waste site to termination of the obligation to maintain proof of financial responsibility for long–term care.

(e) A description of procedures for backfilling all soil borings and monitoring wells when they are abandoned.

(f) A contingency plan to prevent or minimize damage to human health or the environment in the event of an accidental or emergency discharge or other condition that does not comply with conditions of the mining permit or other applicable standards. The applicant shall ensure that the plan does all of the following:

1. Follows the spill prevention, control, and countermeasures plan in regulations promulgated under 33 USC 1321.

2. Indicates, for the monitoring programs required under sub. (5) (o) 8., the levels of substances that if exceeded require the operator to activate the contingency plan.

3. Includes a provision for more concentrated and frequent monitoring in the area of any excessive measurement.

4. Describes possible accidental or emergency discharges or other unplanned events and identifies the corresponding corrective action or alternative action to be implemented should the criteria for action be exceeded.

5. Specifies the action to be taken if an analysis of groundwater samples requires a response.

(g) A list of the groundwater and surface water quality parameters for which the applicant will monitor under s. 295.643 and a description of the methods for groundwater and surface water sample collection, preservation, and analysis that will be used.

(7) REQUIRED DEMONSTRATIONS. Through the mining waste site feasibility study and plan of operation, the applicant shall demonstrate that all of the following apply or will apply with respect to the operation of the mining waste site, excluding the area from which ferrous minerals will be extracted and that is backfilled with mining waste:

(a) No mining waste will be deposited in such a way that the mining waste or leachate from the mining waste will result in a violation of any applicable surface water quality criteria or standards, applicable wetland water quality standards, or applicable groundwater quality standards.

(b) Surface water drainage will be diverted away from and off the active fill area.

(c) Access to the mining waste site will be restricted through the use of fencing, natural barriers, or other methods approved by the department.

(d) The entire perimeter of the mining waste site will be made accessible for inspection and for earth moving equipment required for emergency maintenance.

(e) Any area to be used for the disposal of mining waste and any borrow areas will first be stripped of all topsoil to ensure that adequate amounts are available for reclamation and closure activities.

(f) Effective means will be taken to control dust resulting from the mining waste site.

(g) Provisions will be made for back–up equipment in the event of the breakdown of critical operating equipment.

(h) The design and operation specifications for mining waste site facilities include contingency measures, which may include emergency power supplies, redundant equipment, or temporary holding facilities, to deal with emergency conditions.

(hm) Any mining waste site designed with a liner or situated in soils with sufficiently low permeability to either partially or completely contain leachate is designed with a leachate management system that can effectively remove leachate, prevent surface seepage, and promote adequate settlement to permit final reclamation.

(i) All surface water drainage ditches, culverts, and other drainage control structures are designed for a rainfall event measured in terms of the depth of the rainfall occurring within a 24–hour period and having an expected recurrence interval of once in 100 years.

(j) The final slopes of the completed mining waste site will be no less than 2 percent and no greater than 50 percent, unless the mining waste site is specifically designed for a final use compatible with other slopes.

(k) The final cover design for the mining waste site is based on the results of the mining waste characterization and engineering needs identified in studying the mining waste site feasibility.

(L) Provisions are made for collection and treatment of leachate for all areas designed to contain leachate.

(m) The mining waste site is located and designed, and will be constructed and operated, so that any liner system or naturally occurring soil barrier is compatible with all mining waste that is disposed of or stored in the mining waste site.

(n) For any dam, sufficient freeboard, measured from the inside of the top of the dam, to contain a rainfall event measured in terms of the depth of the rainfall occurring within a 24–hour period and having an expected recurrence interval of once in 100 years and to prevent overtopping by waves during such a rainfall event or a minimum of 2 feet of freeboard, whichever is greater, will be provided.

(o) Drainage or filter bed material has been selected and designed to promote drainage, reduce the potential for piping, and be stable under leaching conditions.

(p) Material used in earth embankments, drainage, or filter beds, will be free of vegetation, organic soils, frozen soils, and other extraneous matter that could affect the compactibility, density, permeability, or shear strength of the finished embankment.

(q) Embankment materials and drainage or filter bed materials will be compacted to 90 percent of the maximum dry density as determined by the standard proctor compaction test, ASTM D698, or to a greater density as necessitated by the embankment height, and the materials will be compacted in appropriate layers as determined through the slope stability analysis, except that compaction and crushing of waste rock for use outside an earth core is not required.

(r) Emergency spill containment areas will be provided near the tailings pipeline in case of power or pipeline failure.

(s) Tailings pipelines will be self–draining to the tailings area or to an emergency spill containment area.

(t) The mining waste site is located in the same watershed as the surface facilities for the mining unless it is not practicable to locate the mining waste site in the same watershed as the surface facilities for the mining, as determined on a site specific basis.

(u) The disposal of the mining waste will minimize the discharge of environmental pollutants to groundwater to the extent practicable.

(w) Tailings pipelines are as short as practicable.

(x) Upstream rainfall catchment areas are minimized.

(y) The outside of the top of any dam is higher than the inside of the top of the dam so that runoff from the top is forced to the inside of the dam.

(z) The mining waste site design includes staged reclamation, if practicable.

(8) LIMITATION ON REGULATION OF CERTAIN MINING WASTE. The department may not regulate the use of mining waste in reclamation or the construction of any facility or structure except through the department's review of the mining plan and reclamation plan and the approval of the application for the mining permit.

(9) APPLICABILITY OF OTHER LAWS. Subchapters I to V and VIII of ch. 289 and rules promulgated under those subchapters do not apply to a mining waste site, to the disposal of mining waste in a mining waste site, or to mining wastes used in the reclamation or construction of facilities and structures on the mining site.

295.53 Environmental impact statement. (1) CONSULTANTS. The department may enter into contracts for environmental consultant services under

s. 23.41 to assist in the preparation of an environmental impact statement or to provide assistance to applicants.

(2) NOTICE. After the department receives an application for a mining permit, it shall notify the public and affected agencies that an environmental impact statement will be prepared for the proposed mine and that the process of identifying major issues under s. NR 150.21 (3), Wis. Adm. Code, is beginning.

(3) ENVIRONMENTAL IMPACT REPORT. (a) An applicant shall prepare an environmental impact report for the mining project. In the environmental impact report, the applicant shall provide a description of the proposed mining project, the present environmental conditions in the area and the anticipated environmental impacts of the proposed mining project, the present socioeconomic conditions in the area and the anticipated socioeconomic impacts of the proposed mining project, details of any wetlands ~~compensation~~ mitigation program under s. 295.60 (8), any measures for navigable waters under s. 295.605 (4), any proposed changes to the forest designations specified in sub. (4) (c), and the alternatives to the proposed mining project. As the applicant provides more information or makes modifications to the proposed mining project, the department may revise the requirements it specified under s. 295.465 (1) (b) to ensure the potential environmental effects can be identified in the department's environmental impact statement.

(b) The department shall assist the applicant in meeting the deadlines for ultimate submission and review of those analyses consistent with this subchapter. If a particular scientific analysis is not completed as of the date the environmental impact report is required to be submitted, the applicant shall identify in the environmental impact report the scope of the analysis and anticipated date that it will be submitted.

(c) 1. The applicant shall submit the environmental impact report with the application for the mining permit.

3. Upon receipt of the environmental impact report, the department shall review the environmental impact report and, if the department finds that the environmental impact report does not contain information reasonably necessary for the department to evaluate the proposed mining project and its environmental effects, the department may request additional information from the applicant.

(d) The department shall accept original data from an environmental impact report for use in the environmental impact statement and need not verify all original data provided by the applicant to accept the data as accurate. The department shall use original data from an environmental impact report in the environmental impact statement if the data contains the information identified under s. 295.465 (1) (b) and any of the following conditions is met:

1. The department, its consultant, or a cooperating state or federal agency collects sufficient data to perform a limited statistical comparison with data from the environmental impact report that demonstrates that the data sets are statistically similar within a reasonable confidence limit.

2. An expert who is employed by, or is a consultant to, the department or is employed by, or is a consultant to, a cooperating state or federal agency determines that the data is within the range of expected results.

3. The department, its consultant or a cooperating state or federal agency determines that the methodology used in the environmental impact report is scientifically and technically adequate for the tests being performed.

(4) PROCEDURE FOR ENVIRONMENTAL IMPACT STATEMENT. (a) The department shall prepare an environmental impact statement for every application for a mining

permit. In preparing the environmental impact statement, the department shall comply with s. 1.11 (2) and s. NR 150.22 (2), Wis. Adm. Code.

(b) The department shall include in the environmental impact statement a description of the significant long–term and short–term impacts, including impacts after the mining has ended, on all of the following:

1. Tourism.

2. Employment.

3. Schools and medical care facilities.

4. Private and public social services.

5. The tax base.

6. The local economy.

(c) The department and other state agencies shall address the application for a mining permit, for any approval, and for any action relating to the mining project involving other state agencies in one comprehensive analysis in the environmental impact statement prepared by the department, including any environmental analysis required by the department with regard to any of the following:

1. The withdrawal of land entered as county forest land under s. 28.11 and any modification of, or amendment to, a county forest land use plan necessitated by the withdrawal of the land.

2. The withdrawal of land entered as forest cropland under s. 77.10.

3. The withdrawal of land designated as managed forest land under subch. VI of ch. 77 and any modification of, or amendment to, a managed forest land management plan necessitated by the withdrawal of the land.

4. The transfer of land for which amounts were awarded by the department, including under s. 23.09 (17m), 26.38, 28.11 (5r), or 77.895, to fund the acquisition

of, or to fund activities conducted on, forest land and any modification of, or amendment to, a forest stewardship management plan or other plan necessitated by the transfer of the land.

(d) The public notice, informational hearing, and comment provisions in s. 295.57, the provision concerning the effective date of approvals in s. 295.58 (6), and the provisions for review in s. 295.77 apply to an environmental impact statement prepared under this subsection. If the department revises and redistributes an environmental impact statement or portion of an environmental impact statement prepared under this section, the department shall distribute the environmental impact statement or portion of the environmental impact statement as provided in s. 295.57, but the period for public comment is 30 days, rather than 45 days.

(e) The department shall conduct its environmental review process jointly with any federal or local agency that consents to a joint environmental review process. The department may adopt any environmental analysis prepared by another state agency or by a federal or local agency. The department may enter into a written agreement with any of those agencies that have a major responsibility related to or that are significantly affected by the proposed mining. In the written agreement, the parties shall define the responsibility of each agency in the development of a single environmental impact statement on the proposed mining and outline the procedures to be used in the regulatory process. The department shall be the lead agency for any environmental review process involving other state agencies. To the extent that any federal or local agency's environmental review process conflicts with the provisions of this section or s. 295.57, then the department shall follow the provisions of this section and s. 295.57 and may only coordinate its environmental review to the extent consistent with the provisions of this section and s. 295.57. The department shall

comment on any federal agency's environmental assessment or environmental impact statement associated with a mining project in accordance with s. NR 150.30, Wis. Adm. Code.

(5) RELATIONSHIP TO OTHER LAWS. This section and s. 295.57 govern the department's obligations under ss. 1.11 and 1.12 with respect to a mining project. Sections 23.11 (5) and 23.40 and ss. NR 2.085, 2.09, and 2.157, Wis. Adm. Code, do not apply with respect to a mining project. The rest of ch. NR 2, Wis. Adm. Code, only applies with respect to a mining project to the extent that it does not conflict with this section and s. 295.57. Sections NR 150.24 and 150.25, Wis. Adm. Code, do not apply with respect to a mining project. The rest of ch. 150, Wis. Adm. Code, only applies with respect to a mining project to the extent that it does not conflict with this section and s. 295.57.

295.56 Exemptions. (1) The department may grant an exemption, as provided in this section, from any of the requirements of this subchapter applicable to any of the following:

(a) A mining permit application, including the mining plan, reclamation plan, and mining waste site feasibility study and plan of operation.

(b) A mining permit.

(c) Any other approval.

(2) (a) An applicant shall submit a request for an exemption in writing and shall describe the grounds for the exemption and provide documentation identifying the conditions requiring the exemption, the reasons for the exemption, and the reasonableness of the exemption.

(b) An applicant may obtain an exemption only if the applicant submits the request no later than the 180th day after the application for the mining permit is

administratively complete under s. 295.57 (2), unless the condition that is the basis for the requested exemption is not known to the applicant before that day, in which case the deadline is extended to the 20th day before the deadline under s. 295.57 (7) (a).

(c) The department shall issue a decision on a request for an exemption no later than the 15th day after the day on which it received the request under par. (a). Subject to par. (b) and except as provided in par. (d), the department shall grant the exemption if it is consistent with the purposes of this subchapter and will not violate any applicable environmental law outside of this subchapter and if one of the following applies:

1. The exemption will not result in significant adverse environmental impacts.

2. The exemption will result in significant adverse environmental impacts, but the applicant will offset those impacts through compensation or mitigation, as provided in s. 295.60, through the measures provided in s. 295.605, or through the conservation measures provided in s. 295.61.

(d) 1. The department shall deny a request for an exemption if granting the exemption would violate federal law.

2. If federal law imposes a standard for an exemption that differs from the standard in par. (c) and that cannot be modified by state law, and if that standard has been approved by the federal government for use by the state through a delegation agreement, federally approved state implementation plan, or other program approval, then the department shall determine whether to grant the request for the exemption using the federal standard.

295.57 Application procedure. (1) SUBMISSION. (a) An applicant shall submit the application for a mining permit as provided in s. 295.47.

(b) The department and the state geologist shall protect as confidential any information, other than effluent data, contained in an application for a mining permit, upon a showing that the information is entitled to protection as a trade secret, as defined in s. 134.90 (1) (c), and any information relating to production or sales figures or to processes or production unique to the applicant or that would tend to adversely affect the competitive position of the applicant if made public.

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(2) DETERMINATION OF ADMINISTRATIVE COMPLETENESS. (a) An application for a mining permit is administratively complete on the 30th day after the department receives the application, unless, before that day, the department provides the applicant with written notification that the application is not administratively complete. The department may determine that an application is not administratively complete only if the applicant does not submit one of the following:

2. A mining plan that contains the types of information specified in s. 295.48 (1), (2), (3), and (4).

3. A reclamation plan that contains the types of information specified in s. 295.49 (1), (2), and (3).

4. A mining waste site feasibility study and plan of operation that contains the types of information specified in s. 295.51 (5), (6), and (7).

5. An environmental impact report.

6. The evidence required under s. 295.47 (2) (g).

(b) In making the determination under par. (a), the department may not consider the quality of the information provided.

(c) In a notice provided under par. (a), the department shall specify what is missing from the application.

(d) The running of the 30–day period under par. (a) is tolled from the day on which the department provides notification, in compliance with par. (a), that an application is not administratively complete until the day on which the applicant submits the missing or revised mining plan, reclamation plan, mining waste site feasibility study and plan of operation, environmental impact report, or evidence required under s. 295.47 (2) (g). The department shall notify the applicant when it receives the missing or revised mining plan, reclamation plan, waste site feasibility study and plan of operation, environmental impact report, or evidence required under s. 295.47 (2) (g). The application is administratively complete on the day on which the department provides the notification to the applicant or on the expiration of the remainder of the 30–day period, ~~whichever is sooner.~~

(e) The department may request additional information needed to process a mining application from the applicant after the application is administratively complete, but the department may not delay the determination of administrative completeness based on a request for additional information.

(3) NOTICE OF ADDITIONAL APPROVALS. Within 30 days after the mining permit is administratively complete under sub. (2), the department shall notify the applicant in writing of any approval required for the construction or operation of the mining site that was not previously identified by the department.

(3m) RECEIPT OF CERTAIN APPROVALS. If a storm water discharge permit under s. 283.33 (1) (a) or a water quality certification under rules promulgated under subch. II of ch. 281 to implement 33 USC 1341 (a) is needed for a mining operation, the person applying for the mining permit may apply for and be issued the permit or certification.

(4) PUBLIC INFORMATION AND NOTICE. (a) The department shall make available for review in the city, village, or town in which the proposed mining site is located, information concerning the proposed mining, including all of the following:

1. The application for the mining permit, including the mining plan, reclamation plan, and mining waste site feasibility study and plan of operation.

2. Any of the following relating to an approval other than the mining permit:

a. The application.

b. A draft approval.

c. Information or summaries relating to the approval.

3. The environmental impact statement, environmental impact report, and any additional supporting information used in the department's evaluation of the proposed mining.

4. The department's analyses and preliminary determinations relating to any approval.

(b) The department shall distribute a notice that describes the availability of the information under par. (a); the opportunity for written public comment, including an invitation for the submission of written comments by any person within 45 days after the notice is published; and the date, time, and location of the public informational hearing and that includes any additional information that a law concerning any approval requires to be provided. The department shall publish the notice as a Class I notice under ch. 985. The department shall also send the notice to all of the following:

1. The clerk of any city, village, town, or county with zoning jurisdiction over the proposed mining site.

2. The clerk of any city, village, town, or county within whose boundaries any portion of the proposed mining site is located.

3. The clerk of any city, village, or town, contiguous to any city, village, or town within whose boundaries any portion of the proposed mining site is located.

4. The main public library of each city, village, town, or county with zoning jurisdiction over the proposed mining site or within whose boundaries any portion of the proposed mining site is located.

5. Any regional planning commission for the area within which the proposed mining site lies.

6. Any state agency that the department knows is required to grant a permit or other authorization necessary for the construction or operation of the proposed mining project.

7. The federal environmental protection agency, U.S. Army Corps of Engineers, and states potentially affected by the proposed discharge if a water discharge permit under ch. 283 or a water quality certification for a federal wetland under s. 295.60 (4) is to be considered at the public informational hearing.

8. The federal environmental protection agency and appropriate agencies in other states that may be affected if an air pollution control permit under ch. 285 is to be considered at the public informational hearing.

9. If a water withdrawal permit under s. 295.61 for a withdrawal of surface water is to be considered at the public informational hearing, the persons specified in s. 30.18 (4) (a).

10. If an individual permit under s. 30.12 for a structure through which water transferred from the Great Lakes basin would be returned to the source watershed through a stream tributary to one of the Great Lakes is to be considered at the public

informational hearing, the governing body of each city, village, and town through which the stream flows or that is adjacent to the stream downstream from the point at which the water would enter the stream.

11. Any person upon request.

12. The applicant.

13. Any other person to whom the department is required to give notice of any proposed determination, application, or hearing concerning an approval under the laws relating to the issuance of any approval or under s. 1.11.

(c) The department shall coordinate the public comment period for the mining permit with the public comment period for any other approval for the mining operation, except that if an application for an approval is filed too late to allow public comment within the public comment period for the mining permit, the department shall issue separate notice, as described in par. (b), for the approval after the application is filed.

(5) INFORMATIONAL HEARING. The department shall hold a public informational hearing before issuing or denying a mining permit and not less than 30 days after publishing the notice under sub. (4) (b). The department shall hold the public informational hearing in the county where the majority of the proposed mining site is located. The department shall hold a single public informational hearing covering the mining permit, all other approvals, and the environmental impact statement, except that if an application for an approval is filed too late to allow the application to be considered at the public informational hearing for the mining permit, the department shall hold a separate public informational hearing on the approval in the county where the proposed site is located not less than 30 days after publishing the

notice under sub. (4) (b) for the approval. The public informational hearing under this subsection is not a contested case hearing under ch. 227.

(6) SUMMARY. After considering the comments received under subs. (4) and (5) and before acting on the application for the mining permit, the department shall prepare a summary of the comments and the department's response to the comments.

(7) DEADLINE FOR ACTING ON MINING PERMIT APPLICATION. (a) No more than 360 days after the day on which the application for a mining permit is administratively complete under sub. (2), the department shall approve the application, and issue a mining permit, or deny the application, in accordance with s. 295.58.

(b) If the department does not comply with par. (a), the application for the mining permit is automatically granted and the department shall issue a mining permit. The applicant may engage in mining based on the automatic approval, notwithstanding any delay by the department in issuing the mining permit.

(8) DEADLINE FOR ACTING ON OTHER APPROVALS. (a) Except as provided in par. (c), if an applicant files an application for an approval other than a mining permit no later than 60 days after the day on which the application for the mining permit is administratively complete under sub. (2), the department shall approve the application, and issue the approval, or deny the application no more than 360 days after the day on which the application for the mining permit is administratively complete under sub. (2).

(b) Except as provided in par. (c) if an applicant files an application for an approval other than a mining permit more than 60 days after the day on which the application for the mining permit is administratively complete under sub. (2), the deadline for acting on the application is extended beyond the deadline under par. (a)

by the number of days beyond the 60th day after the day on which the application for the mining permit is administratively complete that the applicant files the application for the approval.

(c) Paragraphs (a) and (b) do not apply to the application for an air pollution control permit under s. 285.62.

(d) The department shall incorporate an approval other than a mining permit into a single document with the mining permit, unless the application for the approval was filed more than 60 days after the day on which the application for the mining permit is administratively complete under sub. (2).

(8m) SUBMISSION OF TECHNICAL REVIEW TO GREAT LAKES REGIONAL BODY. If an applicant files an application under s. 281.346 for an approval for a withdrawal of surface water or groundwater that is subject to regional review or council approval, the department shall provide its technical review, as defined in s. 281.346 (1) (u), to the regional body, as defined in s. 281.346 (1) (q), no later than 90 days after the applicant files the application for the approval.

(9) APPLICABLE PROCEDURE. The provisions of this section and ss. 295.58 (5) and (6) and 295.77 concerning public notice, comment, and hearing; issuance of department decisions; effective date of department decisions; and review of department decisions; and the duration of approvals apply to any approval, notwithstanding any provisions related to those matters in s. 44.40 or 169.25, subch. I or VI of ch. 77, ch. 23, 29, 30, 169, 281, 283, 285, 289, or 291, or rules promulgated under those provisions, except as provided in s. 281.343 (7r) and except that if a withdrawal of surface water or groundwater is subject to regional review or council approval under s. 281.346, the applicable provisions related to regional review or council approval apply.